

CHAPTER 4: ACCOUNT SERVICING

4.1 INTRODUCTION

To ensure that program objectives are met and that borrowers do not default on their loans, the Agency has specific procedures for servicing borrower accounts. These procedures are designed to ensure that loan payments are received on time and in the proper amounts, payments are properly applied to the appropriate account, past due accounts are serviced correctly, late fees are assessed for late payments, and procedures for final loan payments are followed. Diligent management of the account servicing process through promptly and accurately recording payments and tracking late payments is an effective method to reduce unnecessary delinquencies.

This chapter presents the Agency's procedures for servicing borrower accounts. It describes the procedures that all Loan Servicers must follow when servicing accounts in order to protect the Government's interest in the loan and the property.

4.2 OVERVIEW

Agency regulations at 7 CFR 3560.401 through 7 CFR 3560.403 establish borrowers' responsibilities and the actions the Agency may take to collect timely loan payments from borrowers, protect its interests and the security of its loan, and assist borrowers in meeting the objectives and requirements of the loan. These regulations require that borrowers repay their loans to the Agency according to the specific provisions of their debt instruments and operate their facilities in accordance with requirements of the rule and other applicable federal, state, and local laws. The Agency may reject any servicing request by a borrower if it is not in the best interest of the Government or tenants.

Most servicing requirements and procedures are the same for Daily Interest Accrual System (DIAS) accounts and Predetermined Amortization Schedule System (PASS) accounts, with the exception of the assessment of late fees, which only applies to PASS accounts. Payments under DIAS are not assessed late fees because additional interest is charged automatically, based on the number of days the past due balance is outstanding.

SECTION 1: ACCOUNT SERVICING REQUIREMENTS [7 CFR 3560.403]

The Agency's regular account servicing requirements cover the following major topic areas: loan payments, late fees, servicing past due accounts, conversion of accounts from DIAS to PASS, waivers, and final loan payments. This section describes the regulatory requirements for each of these areas.

4.3 LOAN PAYMENTS

Borrower loan payments are due on the first day of each month unless otherwise established in the debt instrument executed with the Agency. A borrower is in default of loan agreements when the Agency has not received the full payment by the first day of the month.

The Agency is under no obligation to offer borrowers loan servicing other than actions consistent with debt instruments and other agreements. However, the Agency does not pursue legal action to cure the default until a borrower is 60 days delinquent. If a borrower with a PASS account has not paid the full amount by the 10th day of the month, the payment is considered delinquent.

4.4 LATE FEES (PASS ACCOUNTS ONLY)

The Agency will charge a fee for late payments under PASS accounts, equal to six percent of the note installment. Late fees are charged if any portion of a note payment exceeding \$15 is late (i.e., outstanding after the 10th of the month). The Agency may charge late fees only once for each regular installment or portion thereof.

Late fees are an owner expense, and as such, may not be charged to the project. Borrowers are not entitled to appeal rights with regard to late fees. The Finance Office notifies all late borrowers with PASS accounts of late fees and the payment due, not including overage and rental assistance calculations. The Servicing Officer should follow up with the borrower on this notification in an effort to collect the amount due before an account becomes 30-days past due.

4.5 LATE FEE WAIVERS

The State Office may waive late fees only for circumstances beyond a borrower's control or when granting the waiver is in the best interest of the Government. Waivers are issued at the Agency's discretion and Field Staff are under no obligation to grant waivers.

4.6 ACCOUNTS 30-DAYS PAST DUE

A. Past Due Payments

The Agency considers a borrower to be delinquent if any past due amount remains unpaid 30 days after the payment due date. If a delinquency exists, the Agency immediately contacts the borrower and attempts to collect the amount due.

B. Interest on Past Due Payments (PASS accounts only)

When a regular payment continues to be past due on the first of the month following the payment due date, the Agency charges interest at the note rate on the unpaid delinquent principal amount. Interest is charged from the date the principal was due until all applicable payments are current in accordance with the number of full installments required by the promissory note, and is in addition to the scheduled interest of the regular payment. The interest on delinquent principal, the unpaid delinquent principal, any applicable late fees, and recoverable cost charges are added to the regular payment amount due for the next month to determine the total amount due as of the first of the month following the delinquency.

C. Special Servicing Action

Borrowers with accounts 30-days past due may be subject to the special servicing provisions outlined in Chapters 10 and 12 of this handbook.

4.7 CONVERSION FROM DIAS TO PASS

To facilitate and standardize its servicing efforts, the Agency requires that all new loans be closed and serviced using PASS. The only exceptions are farm labor housing loans and on-farm labor housing loans, which may be closed on either DIAS or PASS. Farm labor loans may be closed on DIAS if the farm operation is such that the annual payment corresponds to the timing of usual farm income.

Borrowers with DIAS accounts, except for Labor Housing loans, must convert to PASS if they request servicing actions that involve a change in the terms of their loan (e.g., credit sales, reamortizations, equity incentive loans, loan consolidations, and project transfers) or if they request subsequent loans.

4.8 FINAL LOAN PAYMENTS

The Agency will not accept a final loan payment unless applicable prepayment requirements have been satisfied, and the documents establishing any ongoing use restrictions accepted by the borrower are executed.

A borrower's final loan payment must include repayment of all outstanding obligations to the Agency. The Agency will apply any remaining supervised funds to the borrower's account or return such funds to the borrower following acceptance of final payment. At the borrower's request, the Agency will provide a written statement indicating the amount necessary to pay the account in full.

Suitable forms of payment include cashier's check, money order, or bank draft. If borrowers use forms of payment that require special handling, the borrower is responsible for the cost of such handling. When payment is provided in a form that is not the equivalent of cash, the Agency will consider a payment to be received at the time the funds have been successfully transferred to the Agency.

The Agency will release security instruments when full payment of all outstanding obligations to the Agency has been received and accepted. If the Agency and the borrower agree to settle the account for less than the full amount owed, the Agency may release security instruments when the borrower has paid all agreed-upon obligations in full. Recording costs for the release of the security instruments will be the responsibility of the borrower, except where state law requires the mortgagee to record or file the satisfaction.

The Agency may collect any account balance that results from an error by the Agency in handling final payments.

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SECTION 2: PROCESSING TENANT CERTIFICATIONS

4.9 OVERVIEW

In order for borrowers to qualify for interest credit or rental assistance, they must demonstrate that their tenants meet the income and household size eligibility limits delineated by the Agency. This section describes the Agency's policies and procedures for processing tenant certifications, including verification that the information is true and accurate.

4.10 REQUIREMENTS OF THE RULE

For each occupied unit under lease, borrowers must have a current tenant certification or recertification on file with the Agency to be eligible for interest credit or rental assistance. The Agency may charge borrowers overage and withhold rental assistance payments for units without a valid and current tenant certification. These requirements protect the Government's interest by ensuring that only eligible units benefit from Agency subsidy payments. They also protect tenants' interest by reserving subsidy benefits for those who actually qualify for them.

4.11 GENERAL PROCEDURES

A. Timely Submission and Overage Charges for Late Submissions

Borrowers must submit tenant certifications for new tenants and required recertifications for existing tenants no later than the 10th day of the month for the certification to be effective for that month. This deadline applies regardless of whether the certifications are being submitted through Industry Interface or in hard copy. Tenant certifications received after the 10th of the month will be considered late. Borrowers are not eligible for interest credit or rental assistance for units with late certifications, and the Agency will charge the appropriate amount of overage until valid certifications are received in a timely manner for all units.

The tenth of the month deadline applies regardless of whether the late certification in question relates to a new certification, an amended certification, a re-certification, or a vacate notice. Any changes to tenant certifications that are effective as of the first day of the month must be submitted to the Agency by the tenth of that month for the affected units to qualify for interest credit or rental assistance. If the changes are submitted after the 10th of the month, the Agency will charge overage and the changes will be effective the first day of the following month. The Agency may remove a management agent if there is a pattern of failure to submit tenant certifications on time that results in excessive overage charges.

B. Waivers of Overage

In select cases where the late certification in question is a recertification and the information on the existing certification is still valid, the Agency may at its discretion waive the overage charge for that month.

In any other circumstance, borrowers may request waivers of overage from the Agency by submitting a letter to the Servicing Office justifying the reasons for the waiver. The criteria and procedures for requesting and granting a waiver of overage are virtually identical to those outlined in Section 3 of this chapter for waivers of late fees (e.g., the borrower must demonstrate that the late submission was due to circumstances beyond the borrower's control, or that the overage charge will place an unfair burden on the borrower). If a request for waiver of overage is denied, the charge must be paid as a borrower expense. Nonprofit borrowers and cooperatives may treat the charge as a project expense, although they must clearly demonstrate to the Agency why this is necessary (e.g., paying the overage from borrower funds would place an unfair economic burden on the borrower). As with late fee waivers, if a request for an overage waiver is denied, the borrower will be given appeal rights.

C. Verification and Processing of Certifications

Borrowers provide all tenant certification forms to the Servicing Office. The Loan Servicer will verify the data on current tenant certifications. Loan Servicers then enter data from verified tenant certifications—a function now handled through MFIS—and compare this information with the automated MFIS project worksheet (PRJ2000). Loan Servicers rely on the data in MFIS to calculate interest credit and rental assistance due the borrower, as well as overage due the Agency in cases of late certifications. All subsidy payments are based on tenants occupying the units as of the first day of the month prior to the payment due date. For example, a payment due on July 1 is based on tenants occupying the units June 1.

Note: *Form RD 1944-29, Worksheet for Credit and Rental Assistance*, is usually received during payment processing and is compared to the MFIS project worksheet.

Chapter 3, which includes a discussion of Industry Interface, provides more detail on the procedures associated with verification and processing of tenant certifications.

D. Approval of Subsidy

The Agency will certify for interest credit or rental assistance only those tenants with current tenant certifications showing on MFIS when payments are being processed. Loan Servicers file a copy of the monthly project worksheet (*Form RD 1944-29, Worksheet for Credit and Rental Assistance*) to document the approved subsidies.

SECTION 3: LOAN PAYMENT PROCESSING

4.12 OVERVIEW

The Agency processes loan payments and subsidy requests according to the servicing and collection requirements of the individual loan. The requirements are established by the loan agreement or loan resolution, and the promissory note. There are a number of steps common to the processing of any loan payment. These steps are outlined below.

4.13 NOTIFICATION TO BORROWERS OF PAYMENTS DUE

A. Factors Used To Determine Payment Amount

The Servicing Office specifies to each borrower on a monthly basis the amount of the current payment that is due, unpaid late fees, and delinquent payments due, if any, on the first day of the following month. This determination is accomplished by printing out the appropriate screens from AMAS which calculate tenant rent payments, borrower subsidy, and the “net” payment due from the borrower. Each tenant’s rent payment is calculated by entering data from tenant certifications into MFIS. If the calculations on the tenant certification do not agree with MFIS, the Field Office will contact the borrower/management to resolve the discrepancy. The Agency also uses MFIS calculations to calculate interest credit and rental assistance payments due the borrower. All payment amounts are based on tenants occupying the units as of the first day of the month prior to the payment due date. For example, a payment due on July 1 is based on tenants occupying the units June 1.

B. Calculating Payment Amount

Loan Servicers determine the amount due from the borrower by using information from the automated MFIS Project Worksheet and AMAS screens to sum the following components of a payment due:

- Audit receivables (e.g., excess rental assistance, unauthorized assistance) as determined by MFIS;
- Late fees as determined by AMAS;
- Cost items (e.g., taxes, insurance, protective advances) as determined by AMAS;
- Overage as determined by MFIS; and
- Debt service (i.e., interest and principal as determined by AMAS).

Note that audit receivables and cost items may be either unamortized or amortized. If they are amortized, a borrower may have up to five years to pay under the terms of an approved work-out agreement (See Chapter 10 for more information on workout agreements).

The Agency will count only those tenants who have current tenant certifications on MFIS for interest credit or rental assistance when processing payments. Loan Servicers file a copy of the monthly MFIS project worksheet (*Form RD 1944-29, Worksheet for Credit and Rental Assistance*) to document the approved subsidies. For a project receiving rental assistance, the rental assistance amount is applied as a credit to the total amount due as calculated on the project worksheet. The remaining balance is the “net” amount due.

The diagram below illustrates how rental assistance and overage are calculated and the impact they have on tenant rent and the borrower’s loan payment. If the amount of rental assistance exceeds the borrower’s loan payment, the Agency will make a rental assistance payment to the borrower. In accordance with the Debt Collection Improvement Act of 1996, the Agency is required to send rental assistance checks via an electronic funds transfer to the borrower’s bank account beginning in January 1999.

Exhibit 4-1
Overage and Rental Assistance

30% of Tenant Monthly Adjusted Income	Rental Assistance	Basic Rent	Note Rent	Overage	Actual Rent Paid by Tenant
\$180	Not available (\$0)	\$200	\$500	\$0	Tenant pays Basic Rent, \$200. Tenant is rent overburdened.
\$180	\$20	\$200	\$500	\$0	Tenant pays \$180
\$200	\$0	\$200	\$500	\$0	Tenant pays Basic Rent, \$200
\$230	\$0	\$200	\$500	\$30	Tenant pays \$230, \$30 is considered overage
\$500	\$0	\$200	\$500	\$300	Tenant pays \$500, \$300 is considered overage

C. Borrower Verification Of Payment Data

Borrowers may use a copy of the MFIS project worksheet report as Parts I and II in lieu of *Form RD 1944-29, Worksheet for Credit and Rental Assistance*. The Field Office will provide a copy of the MFIS project worksheet report to the borrower about the 20th of the month. When using the project worksheet report as Parts I and II, the borrower will verify the data, sign the report, and return it with the monthly payment to the Field Office. Borrowers using the report as Part II only will complete, sign, and attach Part I of *Form RD 1944-29* to the report before returning it with the monthly payment. Borrowers with Section 8 units who are reporting overage payment and/or excess HUD contract rent to the reserve account are required to complete Part I of either *Form RD 1944-29*.

4.14 PAYMENT DUE DATES

The regular payment due date is established in the Agency Promissory Note for the project and is generally the first day of each month. The first regular amortized payment after loan closing for transfers, reamortizations, voluntary conversions, credit sales, or loans closed after interim financing must be at least one month from closing. For example, if a loan is closed on January 31, the first regular amortized payment will be due March 1. For multiple advance loans, the first payment must be at least one month after the final advance.

For transfers, payments on loans already on PASS will be due on the next scheduled due date. For transfers converting from DIAS to PASS, regular amortized payments will be due 30 days from either the date of closing or the interest only installment, whichever is later.

4.15 ASSESSMENT OF LATE FEES

A. Notification of Amount Due

Payments for loans closed on PASS and DIAS are due on the first of the month. The Agency charges late fees on PASS payments received after the 10th of the month. The Finance Office automatically notifies each borrower of late fees for PASS payments that were outstanding as of the 10th of the month. On or about the 11th day of each month, the Finance Office will generate and mail *Form RD 1944-9A, Multiple Family Housing Statement of Payment Due* to each borrower who is 30-days past due and/or owes late fees, showing the current monthly payment due, unpaid late fees, and past due payments due on the first day of the following month. This payoff statement will be determined from current Finance Office records but will not reflect overage due from the borrower or rental assistance due the borrower. The Finance Office mails a copy of this notice to the Field Office servicing the account.

Late fees collected by the Finance Office are deposited in the Rural Housing Insurance Fund (RHIF).

1. *Agency Approval of Waivers Procedures for Granting Late Fee Waivers*

Waivers to late fee charges may be granted only as follows:

- The State Director may grant a waiver for as many late fee charges as are justified by the facts of the case, based on a determination that the late fees would place an unfair burden on the borrower. For each waiver requested, the borrower must provide a written explanation of the circumstances that caused the late payment, proof that they were beyond the borrower's control, and a description of what actions will be taken to bring the account current. Waivers are granted on a case-by-case basis.
- There are only two circumstances under which the Agency will grant a waiver to late fees. The first is when the borrower is a board-managed nonprofit or cooperative, because they are the only entities on which the assessment of late fees would place an unfair burden. The second is where the Agency has agreed to accept deferred payments or partial payments as part of an approved workout agreement. In such

cases, the State Director can grant as many waivers as are justified by the facts of the case (i.e., there is no annual limit on the number of waivers that may be granted).

- As noted above, late fees are an owner expense. As a result, they may not be charged to the project, except in the case of cooperatives, which can pay late fees from project expenses in cases where the fees are not waived.
- The Agency will not grant a waiver solely to correct a delinquency.
- The State Director may authorize late fee waivers in cases where Agency error (e.g., an incorrect statement of the date a payment is due) leads directly to the late payment.

2. Required Submissions from Borrower to Receive a Waiver

Borrowers must submit a number of items to the Agency in order to receive a waiver. These include:

- A written explanation of the circumstances that caused the late payment;
- A description of the factors beyond the borrower's control (e.g., natural disaster); and
- A description of the actions that will be taken to bring the account current.

If the late payment is due to Agency error, the borrower need not submit the items listed above. In such cases, providing notification to the Agency of its error will suffice and loan services will promptly correct the error in the appropriate automated system(s).

3. Notification Upon Granting A Waiver

When a waiver to late fees is granted, the State Director will notify the Servicing Office and the borrower on *Form RD 1951-51, Multi-Family Housing Exception to Late Fees*, completed according to the FMI, and enter the change into AMAS.

4. Denying Waivers

When an application for a late fee waiver is denied, the State Director must give the borrower appeal rights under 7 CFR part 11.

4.16 PROCEDURES FOR PROCESSING PAYMENTS

A. Overview

Loan Servicers are responsible for administering the requirements for payment processing under the guidance and supervision of the State Director. Key steps in processing regular payments and advance regular payments are listed in Exhibit 4-2.

Exhibit 4-2

Key Steps in Processing Loan Payments

- Process payments upon receipt using Field Office Automated Multi-Family Housing Accounting System (AMAS) terminals.
- Review payments for accuracy, balance totals, access the accounting system, and enter appropriate amounts in the proper fields.
- When a payment is processed, the system will apply subsidy credit to the loan account before any payment or other credit is applied to the account. Subsidy credit will be applied first to accrued interest and then to principal after all interest is paid. Subsidy credit will not be applied to late fees, audit receivables, or recoverable cost charges.
- After a payment has been processed, any change in application that does not involve changes in cash may be made in the Servicing Office by properly trained and certified staff. If changes need to be made in a cash field, the AMAS Coordinator in the State Office can process the charge after performing a cursory review of account information.
- Make modifications to the payment as necessary. Some examples of situations where modifications might be made include wrong date of credit, key punch errors, incorrect recording of rental assistance, and duplicate payments (see AMAS instructions for more information).

When a borrower remits a payment, AMAS will net enough rental assistance to bring the account status current and pay any unpaid overage, late fees, or interest on delinquent principal based on the date payment is received. If the account is on or ahead of schedule when the payment is received, enough rental assistance will be netted to pay one full installment and any unpaid overage, interest, or other obligation.

B. Borrower Submission

Borrowers must prepare and submit *Form RD 1944-29, Worksheet for Credit and Rental Assistance*, providing the following information:

- Only tenants occupying units the first day of the month prior to the payment due date.
- Interest credit and rental assistance only for tenants with current tenant certifications.
- Overage up to the market rent that must be paid to the Agency by the borrower for tenants without current tenant certifications unless there is a formal eviction in process. In that case, the payment will be based on the expired tenant certification.
- The borrower may subtract any rental assistance due the project (supported by current tenant certifications) from the payment due and remit a “net” payment. Calculations supporting the net payment must be shown on Part I of *Form RD 1944-29*. AMAS

will net enough rental assistance to bring the account status current and pay any unpaid overage, late fees, or interest on delinquent principal based on the payment receipt date.

C. Application of Payments

1. Regular Payments

The Agency has developed specific priorities for applying regular payments. Exhibit 4-3 lists these priorities in descending order.

AMAS also will apply regular payments on projects with an initial and subsequent loan according to the priorities listed below. Each priority item will be paid for all project loans before moving to the next item. AMAS will apply payments for each priority item in accordance with the loan number, beginning with the initial loan and ending with the highest numbered subsequent loan.

2. Advance Payments And Additional Principal Payments

The Agency also has established specific procedures for applying advance payments and additional principal payments. Advance regular payments are applied as such only when the loan account is current. The payment effective date will be the due date of the next regular payment that is not fully paid. Extra payments are applied as principal to the last installment to become due under the note. Voluntary additional principal payments will only be credited to the account when all regularly scheduled payments on the account have been paid. These payments are credited to all principal, as of the payment effective date, and do not affect the payment status of the loan. Any amount paid by the borrower in excess of the amount owed will be refunded to the borrower if the excess amount is over \$10.

Exhibit 4-3

Priorities for Application of Borrower Payments to Outstanding Obligations

Starting from highest to lowest, the priorities are:

- Amortized audit receivables;
- Unamortized audit receivables;
- All project late fees due;
- Amortized recoverable costs due;
- Unamortized recoverable costs due;
- Overage;
- All other interest due;
- Principal; and
- Any remaining regular payment, which will be applied as an advance regular payment unless specifically designated otherwise.

4.17 SPECIAL CIRCUMSTANCES

A. Reapplication of Payments

Loan Servicers may approve, with the authorization of the State Director, reapplication of payments between accounts when payments have been applied in error. However, no change may be made if the loan is paid in full, the canceled note or notes have been returned to the borrower, and the security instruments have been satisfied. The AMAS Coordinator will enter changes through field office terminals.

B. Overpayments and Refunds

Loan Servicers will process overpayments and refunds to borrowers according to the procedures outlined in RD Instruction 1951-A, Account Servicing Policies.

C. Recoverable and Nonrecoverable Cost Items

The Loan Servicer will service recoverable and nonrecoverable cost items according to the procedures outlined in RD Instruction 1951-A, Account Servicing Policies and RD Instruction 2024-A, Acquisition, Sales, and Leasing Authority.

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SECTION 4: ACCOUNT TRACKING AND SERVICING

4.18 OVERVIEW

The Agency must track borrower accounts to ensure that all payments are up-to-date and to identify any problems that could lead to delinquencies or defaults. Any transaction that affects an account must be tracked to ensure that it has been processed correctly and that it has not had a negative impact on the interests of the borrower, tenants, or the Government.

The Agency has sought to facilitate and standardize the account tracking process by requiring that all new loans, and many existing loans, be closed and serviced using the Predetermined Amortization Schedule System (PASS).

4.19 ACCOUNT TRACKING PROCEDURES

A. Conditions for Conversion from DIAS to PASS

Conversion of accounts from DIAS to PASS may be either voluntary or involuntary. If a borrower requests voluntary conversion of an account, Loan Servicers need to determine that all accounts are current, and that the conversion will not result in rents that exceed conventional rents for comparable units. An involuntary conversion may occur at the time of a servicing action such as a subsequent loan, transfer, or reamortization (again, so long as conventional rents for comparable units are not exceeded). In such cases, the Servicing Office completes *Form RD 1951-50, Multi-Family Housing Conversion Agreement*, and submits it to the State AMAS Coordinator for entry into AMAS. The terms for the converted loan will be the same as for the original loan.

B. Procedures for Conversion from DIAS to PASS

The following actions must be taken to convert an account from DIAS to PASS:

- The Loan Servicer will complete *Form RD 1951-50, Multi-Family Housing Conversion Agreement*, except for loans converted on *Form RD 1965-9, Multi-Family Housing Assumption Agreement*, or *Form RD 1965-16, Multi-Family Housing Reamortization Agreement* (which converts the account to PASS).
- When the borrower will continue to receive interest credit following conversion, the current interest credit plan type will be passed through to the PASS loan. A new *Form RD 1944-7, Multi-Family Housing Interest Credit and Rental Assistance Agreement*, must be prepared by the borrower and the Loan Servicer to reflect the PASS payment and subsidy amount.
- The Loan Servicer will document on the back of the original note or assumption agreement that the payment schedule was modified.
- The Loan Servicer will establish principal balance converted to PASS according to the FMI for *Forms RD 1965-9, 1965-10, or 1965-16*, and specific requirements based on whether the transaction is on the same terms or new terms.

C. Account Reviews

The foundation for proper and timely debt payment is sound budgeting and monthly review of income and expenses by the borrower and, as necessary, by Loan Servicers. Account maintenance must begin with initial planning and must be an integral part of ongoing analysis, planning, and follow-up management assistance.

Loan Servicers must review each loan account at least monthly by accessing AMAS and carefully reviewing the status screens showing account status and other relevant account information. Accounts 30-days past due are subject to special servicing actions, as outlined below and in Chapter 10 of this Handbook.

4.20 SERVICING ACCOUNTS 30-DAYS PAST DUE

When tracking borrowers' accounts, Loan Servicers must identify all accounts 30-days past due. The Loan Servicer will service these delinquent accounts according to the procedures in this handbook with guidance and assistance as necessary from the State Director. If a borrower's delinquency is not corrected by the time the account is 60 days past due, the Agency initiates legal action to cure the borrower's default. In such cases, Loan Servicers will follow the procedures described in Chapter 10 and any additional procedures established by the State Director for the particular type of loan.

4.21 SPECIAL CIRCUMSTANCES

A. Same Terms Transfers

Same terms transfers, when the transferor has been converted to PASS, must take place in a current loan status on the date of the transfer. Borrowers must bring current any delinquent principal and interest before the conversion can occur.

B. Overpayments and Advance Regular Payments

Overpayments and advance regular payments made on PASS accounts result in the creation of a "future paid" status account under AMAS. Loan Servicers must reverse and apply such advance payments to the transferor's principal balance prior to determining the loan balance to be transferred. If the future payments have been made through rental assistance, they must be refunded to the transferor and reapplied in the form of cash on the loan balance.

SECTION 5: FINAL LOAN PAYMENT [7 CFR 3560.404]

4.22 OVERVIEW

Because the final payment on an Agency loan signifies the end of the borrower-Agency relationship and opens a number of legal questions, it is important that the Agency have specific requirements and procedures for accepting and processing final loan payments. The Agency's procedures ensure that payments are received in the proper amount and suitable form, that security instruments are released only when all obligations are satisfied, and that special circumstances are handled appropriately.

Before the Loan Servicer begins the final loan payment process, the Officer must determine if the final loan payment is a prepayment, as covered in Project Preservation, Chapter 15 of this handbook. If the final payment is an advanced payment of the account, the borrower must complete the prepayment process as outlined in 7 CFR 3560, Subpart N, and Chapter 15 of this handbook before the Agency will process a final loan payment.

4.23 PROCESSING FINAL LOAN PAYMENTS

There are a number of steps that Loan Servicers must follow when accepting and processing a final loan payment, as outlined below.

A. Payment Amount Determined

Loan Servicers will obtain and provide to the borrower the amount to be collected for payment in full of all loans by accessing the relevant AMAS status inquiry screens on the Field Office computer terminal. Loan Servicers will furnish requests for payoff balances on all accounts in writing. Such requests require verification of the payoff amount by two employees in the Field Office.

B. Funds Shifted From Supervised Bank Account

When a borrower is ready to pay a loan in full, Loan Servicers must withdraw any funds remaining in the supervised bank account for the initial loan and remit this amount for application to the borrower's account. (Note: This requirement does not include the supervised bank account for reserves. Any amount remaining in the reserve account above the required level and unused is the borrower's money and may be released to the borrower following receipt of the initial payment.

C. Forms Processed

When the Field Office receives final payment, the Loan Servicer processes it in AMAS as a paid-in-full payment. The payment must be loan-specific.

D. Payments Applied

Loan Servicers apply final payments on the next payment due date or the final due date shown on the promissory note, assumption agreement, or reamortization agreement, whichever is sooner.

E. Security Documents Released

1. General

When the Finance Office verifies that all amounts owed the Government have been paid in full, or a compromise or adjusted agreement has been accepted and approved by the appropriate official, it will release security documents to the borrower, along with *Form RD 140-4, Transmittal of Documents*.

If the Agency receives final payment in cash, U.S. Treasury check, cashier's check, certified check, money order, or bank draft, Loan Servicers will give the security documents to the borrower at the time of final payment. If not, the Agency will release the documents after a 30-day waiting period.

2. Loans Secured By Both Real Estate and Chattels

If a loan secured by both real estate and chattels is paid in full, the chattel security instrument will be satisfied or released by the Loan Servicer in accordance with RD Instruction 1962-A, Servicing and Liquidation of Chattel Security.

3. Loans Where Mortgagee is Required to Record or File a Satisfaction

If State law requires the mortgagee to record or file a satisfaction, the Agency will do so consistent with the State supplement. The Agency will deliver the form of satisfaction to the borrower for recordation at the borrower's expense.

4. Loans to Insured Borrowers Whose Note and Security Instrument are Held by a Lender

For an insured borrower whose note and security instrument are held by a lender, the Loan Servicer will deliver to the borrower the note and other documents upon receipt from the lender of the promissory note marked "paid-in-full," the original security instrument, and the instruments of satisfaction or release.

F. Release Of Interest In Insurance

When the borrower's loan has been paid in full and the satisfaction or release of the mortgage has been executed, the Loan Servicer is authorized to release the mortgagee interest in the insurance policy as provided in Chapter 3, Project Management, of the Asset Management Handbook.

G. Special Circumstances

1. Refunded Principal

If the entire principal of the loan is refunded after the loan is closed, the borrower must pay interest from the date of the note to the date of the receipt of the refund.

2. Overpayment

If the borrower's final loan payment is greater than the amount due to close the loan, the Agency will process a refund to the borrower 30 days after receipt of the final payment.

3. Agency Error in Handling Final Payments

If the Agency makes an error in handling final payments, and the error results in an account balance, the Loan Servicer may attempt to collect that amount from the borrower.

4. Note-Only Cases

When a loan is evidenced only by a note (i.e. no security instruments are evident) and the note is paid in full, the Agency will deliver the note to the borrower.

5. Other Situations

If a situation develops that is not covered by regulations, the Loan Servicer forwards the borrower's case file to the State Director, who may offer assistance and special instructions after consultation with OGC.

H. State Supplements

The State Director, with the advice of OGC, will issue a State Supplement and the necessary forms for releasing or satisfying real estate security instruments. Any unusual cases that are not covered by the State Supplement will be handled in accordance with advice from OGC.

I. Redelegation of Authority

Field Office Directors are authorized to redelegate to Field Staff the authority to execute releases and satisfactions associated with final payments, provided it is determined that the individual to whom such authority is being redelegated has had sufficient training and experience to properly exercise such authority.